

Town of Brookline
Advisory Committee Minutes

Carla Benka, Co-Chair

March 4, 2014

Present: Carla Benka,, Clifford M. Brown, John Doggett, Bernard Greene, Kelly A. Hardebeck, Nancy S. Heller, Amy F. Hummel, Alisa G. Jonas, Janice S. Kahn, Fred Levitan, Pamela Lodish, Sean M. Lynn-Jones, Shaari S. Mittel, Michael Sandman, Stanley L. Spiegel, Leonard A. Weiss, Christine Westphal

Absent: Harry K. Bohrs, Sumner J. Chertok, Lea Cohen, Angela Hyatt, Systke Humphrey, Bobbie Knable, Lee L. Selwyn, Charles Swartz, Karen Wenc

The meeting was called to order at 7:50 PM.

Announcements:

Advisory Committee

1. Agenda Item: FY 15 Legal Services Budget

Presenting for the subcommittee is: Sean Lynn-Jones

See Appendix for Report of Subcommittee.

Present: Joslin Murphy, Acting Town Counsel

Murphy: She really appreciates the work the office has done since Town Counsel left in July; people have really stepped up to the plate.

This is a modest increase that is requested, and there have been large recoveries, including [see report] assisting police in recovering \$40,000 in damage to town property, participating in lodging and liquor regulations, marijuana dispensary regulations; litigated a number of cases, pertaining to motor vehicle claims, successfully; negotiated a number of leases for school department's needs for expansion in early education; they are general counsel to school department; and handle 'garden variety' legal advice and request to all parts of the town. This legal practice is growing, and growing substantially by the 40B project; in addition to the use of outside counsel, the in-house legal staff has daily requirements for their assistance, counsel, and work.

Hopefully they will have a full complement of attorneys when Town Counsel is appointed in the next month. As we compare with other communities with similar populations, they have more staff; would need more information to fully understand the comparison. She is proud of the work that her office does, with the resources provided.

Discussion:

Question: Spooner Road: the immediate abutter family hired a private attorney or there would not have even been an issue come to light, where the Building Commissioner made this decision in error. How does it work, with Town Counsel representing the interests of the town, not the residents?

Answer: Murphy does not see that it is one or the other, but rather both. She also notes that the current Building Commissioner would not have made this mistake.

Question: Also at Hancock Village, neighbors have hired their own attorney.

Answer: Murphy sees the town's interest is seeing the best possible development, while the neighbors would prefer not to see any development at all. So they hired an attorney for their interests. The town counsel role is to have the best possible development, assuming the permit goes forth. At some point, their paths may separate, depending on the outcome of the ZBA.

Question: How does the funding not used since Town Counsel left, being used?

Answer: They have kept this to have for the use of outside counsel, as needed. They have retained outside town counsel in only 2 areas: one for school department in Special Ed hearings, and School Department agreed to access their own funds for outside counsel, until expended; which it has not been expended, since Joslin has been managing cases. Also affordable housing projects have needed outside counsel; they tapped into the funds for this. Some of this remains for other outside counsel needs, which is used very cautiously.

Sean Cronin: If legal needs those funds for outside counsel, it has to request those funds as a special transfer, each time.

Murphy: The Legal counsel's office has been working virtually around the clock.

Vote:

Upon motion duly noted and seconded, the committee voted in regard to the Subcommittee's recommendation to approve the Legal Services Budget of \$832,893:
15 in favor, unanimous.

2. Agenda Item: Board of Selectmen

Also present: Sean Cronin, Deputy Town Administrator

Cronin: No personnel changes except step changes. .

Move to online license renewal registration. For all sort of enterprises, including restaurants; now this is online, which was a huge task. A large number of businesses took advantage of this.

Vote:

Upon motion duly noted and seconded, the committee voted in regard to the Subcommittee's recommendation in favor of the Board of Selectmen Budget of \$671,197
15 in favor, unanimous.

3. Agenda Item: Advisory Committee

Also present: Sean Cronin, Deputy Town Administrator

Vote:

Upon motion duly noted and seconded, the committee voted in favor the Subcommittee's recommendation to approve the Advisory Committee's Budget of \$24,372:
15 in favor, unanimous.

4. Motion to adjourn, 8:25 pm unanimous.

The meeting was adjourned at 8:50 PM.

Appendix:**A. Planning & Regulations SubCommittee Report on Legal Services Budget**

BROOKLINE ADVISORY COMMITTEE

Subcommittee on Planning and Regulation

Report on FY2015 Legal Services Budget

The Planning and Regulation Subcommittee held a public hearing on the FY2015 Legal Services budget on Thursday, February 20, 2014, at 6:30 p.m. in Brookline Town Hall. In attendance were Acting Town Counsel Joslin Murphy, Deputy Town Administrator Sean Cronin, Director of Planning and Community Development Department Alison Steinfeld, Building Commissioner Daniel Bennett, Regina Frawley (TMM-P16) and the members of the subcommittee: Sean Lynn-Jones (chair), Lee Selwyn, and Angela Hyatt.

Proposed FY2015 Budget (See pp. IV-24–IV-26 of the *FY-2015 Financial Plan*)

The FY2015 Legal Services budget reflects an increase of \$17,372, which is a 2.1% increase from FY2014. The summary breakdown is as follows:

| | <u>Actual FY13</u> | <u>Budget FY14</u> | <u>Request FY15</u> | <u>Change FY15 vs. FY14</u> | |
|--------------|--------------------|--------------------|---------------------|-----------------------------|--------------|
| Personnel | \$ 583,342 | \$ 576,762 | \$ 587,334 | \$ 10,572 | +1.8% |
| Services | 102,969 | 127,559 | 127,559 | 0 | +0.0% |
| Supplies | 4,206 | 2,800 | 3,500 | 700 | +25.0% |
| Other | 128,474 | 105,400 | 111,500 | 700 | +5.8% |
| Capital | 2,881 | 3,000 | 3,000 | 0 | +0.0% |
| TOTAL | \$ 821,872 | \$ 815,521 | \$ 832,893 | \$ 17,372 | +2.1% |
| BENEFITS | | | \$ 274,142 | | |
| REVENUE | \$ 6,000 | \$ 5,000 | \$ 5,000 | | |

Total FTEs for FY14 remain at 6.53, which has been unchanged since FY2010, although the position of Town Counsel is currently unfilled. The \$5,000 revenue is for damage recovery that the department takes in and books as revenue.

Discussion

The Office of Town Counsel serves a critical role in virtually all the Town's departments, handling litigation and legal affairs on a daily basis and working with departments to address and resolve potential issues before they develop into liability problems for the Town. Of the many accomplishments in FY14, it recovered almost a million dollars through tax lien foreclosures, personal property taxes and Chapter 13 bankruptcy payments (the majority of this from 81 Spooner Road), received a Land Court judgment of \$171,238 for unpaid taxes, and worked with various town departments to craft Warrant Article language for medical marijuana dispensaries. In addition to the many accomplishments listed, the Office of Town Counsel provides assistance to citizens in drafting warrant articles and Open Meeting Law (OML) training.

Joslin Murphy stated that she has been serving as Acting Town Counsel since Ms. Dopazo Gilbert left the position last summer. Ms. Murphy stated that her office is looking

forward to having the Town Counsel position filled permanently, as they have been working the same caseload with one fewer attorney since the position was vacated. Lee Selwyn asked her to elaborate on the nature of the current caseload and how many of these pertain to special education. Ms. Murphy estimated the offices' current IEP caseload at 15 to 20 and replied that it is essentially a full-time job for one attorney since these are similar to trial proceedings, although the vast majority of cases are settled prior to a hearing.

In reviewing the budget breakdown, it was noted that personnel costs for the Office of Town Counsel are virtually unchanged. Mr. Cronin explained that the worker's compensation "charge-off" has been eliminated in the FY15 budget, as Town Counsel no longer provides support for worker's compensation cases. All of that work is provided by outside counsel, which is paid for out of the worker's compensation budget.

Purchases of Services and Capital costs are unchanged from FY14. There is a small increase (\$700) for office supplies.

Under "Other Charges", Ms. Murphy explained that most of this money is for an increase in Claims and Settlements associated with potholes, although she has some concern that this may not be sufficient. (She noted that there is a \$5000 maximum road defect claim per incident.) Ms. Murphy also explained that the small increase for Conferences in FY14 is to provide education and training that will allow some "cross pollination" amongst legal services staff. Currently, each attorney generally handles all concerns within a particular area of expertise, and while this may sound like a sensible way of divvying up the workload, it means that if that particular attorney is unavailable then there can be a delay in dealing with time-sensitive issues.

Looking ahead, Legal Services anticipates the appointment of Town Counsel soon and is prepared to facilitate a smooth transition to ensure that excellent legal services to the Town are uninterrupted.

Recommendation

By a vote of 3-0, the Planning and Regulation Subcommittee recommends a FY2015 appropriation of \$832,893 for Legal Services.